

## Internal Revenue Service

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## Legend

X =

GP =

MLP =

Target =

New LLC =

Business A =

Business B =

M =

N =

O =

P =

Q =

R =

Dear :

This letter responds to your September 9, 2019, letter requesting a significant issue ruling with regard to a proposed transaction (the "Proposed Transaction"). The material information submitted in that letter and in subsequent correspondence is summarized below.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by penalty of perjury statements executed by an appropriate party. This office has not verified any of the materials submitted in support of this request for rulings. Verification of the information, representations, and other data may be required as part of an examination.

This letter is issued pursuant to § 6.03(2) of Rev. Proc. 2019-1, 2019-1 I.R.B. 1, regarding one or more significant issues under section 332, 351, 355, 368, or 1036. The ruling contained in this letter only addresses one or more significant issues involved in the transaction. This Office expresses no opinion as to the overall tax consequences of the transactions described in this letter or as to any issue not specifically addressed by the ruling below.

### **Summary of Facts**

X is a publicly-traded partnership within the meaning of section 7704(b) of the Internal Revenue Code (Code) that is classified as a partnership for federal income tax purposes. GP, a limited liability company, that is classified as a partnership for federal income tax purposes, is X's general partner. As the general partner of X and owner of X common units, GP has an M% interest in X. Two individuals own all the interests in GP.

X owns the general partner interest and a portion of the limited partner interests in MLP. MLP is a publicly-traded partnership within the meaning of section 7704(b) that is classified as a partnership for federal income tax purposes. MLP is engaged directly and indirectly through various operating subsidiaries and disregarded entities, in Business A.

X has been engaged in acquisition discussions and has entered into an agreement with Target, an unrelated publicly-traded corporation engaged in Business B. Target's Business B assets, which are similar to those in one or more of MLP's existing lines of business, will expand or complement X's existing business and operations. The Proposed Transaction will result in Target becoming a wholly-owned subsidiary of X. Immediately prior to X's public announcement of this acquisition, X's equity market capitalization was approximately \$N and Target's equity market capitalization was approximately \$O. Also as a result of the Proposed Transaction, (1) Target is expected to own between P% and Q% of MLP common units, and (2) Target's assets are expected to make up between approximately P% and R% of MLP's assets by fair market value.

### **Transaction**

X proposes, in part, to undertake the following transactions ("Transactions"):

- (i) X will form a new limited liability company ("New LLC"), which will be disregarded as an entity separate from its owner, X, for federal income tax purposes.
- (ii) New LLC will merge into Target with Target surviving the merger. In the merger, each outstanding share of Target's stock will be exchanged for common units in X and cash (with respect to the common units received in X).
- (iii) Target will contribute all of its assets to MLP in exchange for units of MLP.

### **Representations**

X makes the following representations:

- (a) Immediately following the Transactions, X's direct ownership interests in MLP will represent more than 50 percent of the value (based on section 704(b) capital accounts) of all equity interests in MLP.
- (b) At the time of the Transactions, there would be no plan in existence pursuant to which the total value of X's direct ownership interests in MLP

will become less than 50 percent of the total value of all equity interests in MLP.

- (c) Immediately after the Transactions after applying the look-through rule of Treas. Reg. § 1.351-1(c)(4), not more than 80% of (1) the fair market value of X's assets (excluding its direct interests in MLP) plus (2) X's ratable share (determined by reference to section 704(b) capital accounts) of the fair market value of MLP's assets will be attributable to assets described in section 351(e).

### **Ruling**

Based solely on the information submitted and representations set forth above, we rule as follows:

- (1) Provided that immediately after the Transactions, X's direct equity ownership interests in MLP will represent 50 percent or more of the value of all interests in MLP, X's direct equity interests in MLP will be disregarded and X will be deemed to own its ratable share (determined by reference to section 704(b) capital accounts) of MLP's assets for purposes of determining whether X would be an investment company under section 351(e) if X were incorporated.
- (2) Provided that immediately after the Transactions after applying the look-through rule of Treas. Reg. § 1.351-1(c)(4), not more than 80% of (1) the fair market value of X's assets (excluding its direct interests in MLP) plus (2) X's ratable share (determined by reference to section 704(b) capital accounts) of the fair market value of MLP's assets is attributable to assets described in section 351(e), X will not be treated as an investment company (within the meaning of section 351(e)) for purposes of applying section 721(b).

### **Caveats**

Except as expressly provided herein, no opinion is expressed or implied concerning the federal tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Further, no opinion is expressed with respect to any transaction other than the transfers described herein. For example, no opinion is expressed with respect to the federal tax consequences of any other transfer of property to X, including whether the control requirement in section 351(a) would be satisfied, or whether any further transfer to a lower-tier entity of X would be integrated with the transfer to X.

**Procedural Statements**

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that this letter may not be used or cited as precedent.

A copy of this letter must be attached to any federal information and income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the Powers of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

*Richard M. Heinecke*

Richard M. Heinecke  
Branch Chief, Branch 5  
Associate Chief Counsel (Corporate)